

Attorney Docket Number: FSP0042  
Title: ROTATING BARRIER FOR JET MASSAGE  
Application Number: 10/773,764

-5-

### REMARKS

In an office action mailed on 05/04/2007, claims 14 and 17 are rejected under 35 USC 112 as being indefinite; claims 13-14 and 16-17 are rejected under 35 USC 102(b) as anticipated by Licht, US 6428466; claims 15 and 18 are rejected under 35 USC 103(a) as unpatentable over Licht in view of Mutzell, US 4853988.

#### **Licht Does Not Teach An Open Table**

In the latest office action, it is asserted that the table of Licht is "open" when the lid is up. It is further asserted that Licht teaches the barrier mounted over the table. Respectfully, this is selective argumentation for the purposes of supporting the rejection. In fact an 'open' table and a barrier mounted over the table cannot and do not exist together in the apparatus of Licht.

Assuming for the sake of argument that opening the lid makes the table 'open' (the Applicant does not agree), then either the lid is open, or it is not. Either the barrier is mounted over the table, or it is not. The barrier of Licht is not mounted over the table when the lid is open. The table of Licht is not open when the lid is closed. The two features, an open table and a barrier mounted over the table, do not exist together in the apparatus of Licht.

Regardless, it is incorrect to state that Licht teaches an open table, when a lid is taught throughout the specification, drawings, and claims as an integral and essential component of the device (a 'capsule'). A 'capsule' with the lid up is still not an open table.

Finally, the Applicant has amended claim 13 to indicate that the barrier over the open table is mounted to make contact with a person lying on the open table. It is indisputable that the barrier of Licht is not mounted to make contact with a person lying on an open table.

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-6-

### **No Motivation to Combine Licht with Mutzell**

Mutzell teaches a fixed barrier and a jet translated below the barrier. Licht teaches a moving barrier over the table and enclosed in a pivoting lid. There is nothing similar about the two devices; they describe fundamentally different approaches to placement of the jets and barriers.

In fact, no one with any skill in the art would even consider the translation system of Mutzell applied to Licht, because the lid of Licht would prevent the translation system of Mutzell from working in practice. The lid-enclosed barrier of Licht could not possibly be translated using the system of Mutzell – the lid could no longer function as such. The two systems simply do not combine to produce any workable result.

### **Conclusion**

In view of the above amendments and remarks, applicant believes that this application is now in condition for allowance. Applicant respectfully requests that a Notice of Allowability be issued covering the pending claims. If the Examiner believes that a telephone interview would in any way advance prosecution of the present application, please contact the undersigned.

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-7-

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